

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN JERRY O'NEIL**, on January 13, 2003 at
3 P.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Sen. Jerry O'Neil, Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Brent R. Cromley (D)
Sen. Bob DePratu (R)
Sen. John Esp (R)
Sen. Dan Harrington (D)
Sen. Trudi Schmidt (D)
Sen. Emily Stonington (D)

Members Excused: Sen. Duane Grimes, Vice Chairman (R)

Members Absent: None.

Staff Present: Dave Bohyer, Legislative Branch
Andrea Gustafson, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 104, 1/9/2003; SB 113,
1/9/2003
Executive Action: SB 104; SB 113

HEARING ON SB 104

Sponsor: SEN. JOHN TESTER, SD 45, Big Sandy

Proponents: Mick Robinson, Department of Public Health and Human Services (DPHHS)

Opponents: None.

Opening Statement by Sponsor:

SEN. JOHN TESTER, SD 45, Big Sandy, presented SB 104 in written statement **EXHIBIT** (phs06a01).

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Proponents' Testimony:

Mick Robinson, Fiscal Services Division Administrator, DPHHS, reiterated that SB 104 is by the request of the department and related to an audit issue. He referred to page two of SB 104, line 16, definition 10, "per diem charge." He said this is a key issue as to why it needed to be changed from July 1 to October 1. The definition of per diem charge talks about the budget DPHHS has to work with, then they have to divide the budget by "the full-time resident load for the previous state fiscal year" (line 19, second page of SB 104), which ends June 30. The department doesn't always have all the information compiled completely for the year until some time after July 1. DPHHS is to change that date, to allow them time to accumulate the data, in terms of the full time equivalent resident load for the facilities, so they can make an accurate calculation as required by statute. The department does not believe the real timing of the new per diem rates will affect change at all, however, it will bring them into compliance with the dates included in the statute.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor: SEN. TESTER closed.

HEARING ON SB 113

Sponsor: SEN. JOHN ESP, SD 13, Big Timber

Proponents: Mary Dalton, Department of Public Health and Human Services, (DPHHS)

Opponents: None.

Opening Statement by Sponsor:

SEN. JOHN ESP, SD 13, Big Timber, introduced SB 113 in a written statement **EXHIBIT (phs06a02)**.

Proponents' Testimony: Mary Dalton, Quality Assurance

Administrator, DPHHS, gave written testimony **EXHIBIT (phs06a03)**.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. STONINGTON asked **Ms. Dalton** what the point of the bill is. **Ms. Dalton** explained it is a contingency request. As long as they stay qualified for Medicaid in that facility, they are fine. This is because DPHHS uses certification standards which are higher than licensure standards. Last spring it had looked like the facilities might not meet the requirements to get Medicaid payment. If that would have happened, they would have still needed to be licensed by the licensure bureau. When they looked at their licensure standards, and needs of the elderly. It does not address the needs of the developmentally disabled. It is a client protection deal. If they are not able to get Medicaid funds, there is something which protects the safety of people in Boulder and Eastmont. This would allow DPHHS to apply the right kind of standards to them.

SEN. STONINGTON wanted to clarify and asked if this applied to state institutions only. **Ms. Dalton** replied that there are only two ICFDD facilities, and they both happen to be state. A few years ago there was a private facility, but it has closed down.

SEN. STONINGTON wondered what would happen if the facilities did not have certification, if it was unqualified for Medicaid, and they didn't have licensure. **Ms. Dalton** said they would license them under the requirements for nursing homes, which would meet the needs of the elderly. It doesn't really address the needs of somebody who has a developmental disability. The federal standards for people with developmental disabilities are different from the ones for the elderly.

CHAIRMAN O'NEIL asked if it was going to make it easier or harder for these places to get licensed. **Ms. Dalton** said that as long as they stay Medicaid certified, it will have no effect upon them. She said the department accepts certification for Medicaid

purposes because it is more stringent than licensure standards. This bill would only kick in if there is a case where the facility is in need of those Medicaid standards.

CHAIRMAN O'NEIL asked what they would have to do to keep their doors open without this bill. **Ms. Dalton** said they would still need to meet the certification requirements for a nursing home, but it does not protect the rights of people with developmental disabilities very well, because they are not specific to them.

Closing by Sponsor: **SEN. ESP** said he would be happy to answer any questions and closed.

EXECUTIVE ACTION ON SB 104

Motion/Vote: **SEN. DEPRATU** moved that **SB 104 DO PASS. Motion carried 8-0.**

EXECUTIVE ACTION ON SB 113

Motion/Vote: **SEN. CROMLEY** moved that **SB 113 DO PASS. Motion carried 8-0.**

{Tape: 1; Side: A}

ADJOURNMENT

Adjournment: 3:25 P.M.

SEN. JERRY O'NEIL, Chairman

ANDREA GUSTAFSON, Secretary

JO/AG

EXHIBIT (phs06aad)